

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D.C. 20548

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FILE: B-216196**DATE:** November 26, 1984**MATTER OF:** DocuMail Division, Bell and Howell
Company**DIGEST:**

Protest that sole-source award of contract was improper is untimely where filed approximately 1 month after date of publication in Commerce Business Daily (CBD) of notice that sole-source negotiations were being conducted, since protester is charged with constructive notice of CBD announcement and protest was not filed within 10 working days after basis of protest was known or should have been known.

DocuMail Division, Bell and Howell Company (DocuMail), protests the sole-source award of a contract to ElectroCom Automation, Inc. (ElectroCom), under solicitation No. IRS 84-0121 for 19 composite mail processing systems. DocuMail contends that it should have been given an opportunity to compete with ElectroCom for this contract.

We dismiss the protest in accordance with 4 C.F.R. § 21.3(g) (1984) of our Bid Protest Procedures, which provides that where the propriety of dismissal becomes clear only after information is provided by the agency, the protest may be dismissed at that time without further development of the record.

DocuMail filed its protest with our Office on August 24, 1984. The record reflects that notice that sole-source negotiations were being conducted with ElectroCom and the contract subject matter was synopsisized in the Commerce Business Daily (CBD) on July 26, 1984.

Our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(2) (1984), require that protests be filed with the General Accounting Office or the contracting agency within 10 working days after the basis for protest is known or should have been known, whichever is earlier. This Office has

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held that publication of a procurement in the CBD constitutes constructive notice of such information to all parties. WGBH Educational Foundation, B-211092, July 21, 1983, 83-2 C.P.D. ¶ 105; Micro Mill, Inc., B-202703, May 1, 1981, 81-1 C.P.D. ¶ 335. Accordingly, DocuMail is charged with constructive notice of the decision to negotiate on a sole-source basis with ElectroCom. Welbilt Electronic Die Corporation, B-208227, Oct. 12, 1982, 82-2 C.P.D. ¶ 326. Thus, its protest concerning this matter filed approximately 1 month after DocuMail knew or should have known the basis for its protest is untimely and will not be considered.

Harry R. Van Cleve
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General Counsel